

REMARKS

Claims 1-75 are pending in the above-identified application. With this Amendment, Applicants have cancelled claims 9-11, 22-54, and 56-58 without prejudice. Applicants reserve the right to prosecute these claims in one or more continuation, continuation-in-part, or divisional applications. Furthermore, Applicants have amended claims 4, 7, 12, 13-16, 55, 59-62, and 64-71 for clarity. In addition, Applicants have made a number of amendments to the specification to correct small typographical errors. No new matter has been added by way of these amendments.

The Examiner has required restriction of the pending claims under 35 U.S.C. § 121 to one of the following two groups:

- I. Claims 1-72, drawn to "superconducting phase shifter devices."
- II. Claims 73-75 drawn to "a method of manufacturing a device."

The Examiner contends that the inventions of Groups I and II are distinct, each from the other. In particular, the Examiner contends that the inventions of Groups I and II are related as a process of making and product made.

Upon the election of group I, the Examiner has further required an election of one of the following species:

- Species I) the embodiment of Fig. 1A;
- Species II) the embodiment of Fig. 1B;
- Species III) the embodiment of Figs. 1C, 1D;
- Species IV) the embodiment of Figs. 1E, 1F, and 1G; and
- Species V) the embodiment of Fig. 2.

In order to be fully responsive, Applicants hereby elect with traverse to prosecute the claims of the invention of Group I that have not been cancelled (claims 1-8, 12-21, 55, 59-72), drawn to superconducting phase shifter devices, and species III (the embodiment of Figs. 1C and 1D). Claims 1-5, 7, 8, and 12-21 are readable upon the elected species. The Examiner has stated that claim 1 is generic to Group I.

Applicants reserve the right to petition from the Restriction Requirement under 37 C.F.R. §1.144 and respectfully traverse the Examiner's division of the invention into the above two groups and five species. Applicants contend that it would not be a serious burden on the Examiner to examine Groups I-II together, or species I-V together. In this regard, M.P.E.P. § 803 (February 2003 Version of the August 2001 Original Eight Edition) states:

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

Accordingly, Applicants respectfully request, therefore, that the Restriction Requirement under 35 U.S.C. §121 be withdrawn and that the presently pending claims be examined in one application.

Failing the complete withdrawal of the restriction requirement or the complete withdrawal of the species election, Applicants respectfully request that claims 1-8, 12-21, 55, and 59-71 be included in the elected species.

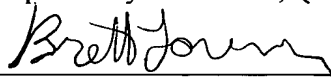
Applicants respectfully request that the above-mentioned remarks be entered and made of record in the file history of the subject application.

CONCLUSION

No fee is believed owed in connection with the filing of this amendment and response. However, should the Commissioner determine otherwise, the Commissioner is authorized to charge any underpayment or credit any overpayment to Jones Day Deposit Account No. 16-1150 for the appropriate amount. A copy of this sheet is attached.

Date: February 1, 2004

Respectfully submitted, ~



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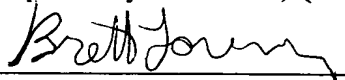
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